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Agencies and Individuals

THE Central Intelligence Agency faces a built-in disadvantage in its public relations because it so often can explain only part of any of its activities that come to public notice. But the most recent instance of CIA embarrassment raises some basic questions about the relationship between an individual and a government agency.

This episode concerns two Estonian refugees, Juri Raus and Eerik Heine. Mr. Heine filed suit for slander after Mr. Raus denounced him as a "dispatched Soviet intelligence operative, a KGB agent."

But the CIA has asked the court that Mr. Heine's suit be summarily dismissed because his accuser, Mr. Raus, turns out to be an agent of the CIA. According to the Agency's deputy director, Mr. Raus acted under orders, and therefore his attacks on Mr. Heine were "absolutely privileged." The judge has rendered no opinion on the CIA's argument.

To avoid a breach of security, the CIA argues that its agent should not be compelled to stand trial for slander. If this view were sustained, Mr. Heine would be denied the opportunity to confront his accusers in court.

Obviously a government agency must have certain immunities if it is to operate without undue timidity. But such immu-

nities are not absolute; police agencies, for instance, may be forced to defend themselves against false arrest charges or defamation of character under certain circumstances. Does a secret intelligence agency have a right to slander some one in the course of what it conceives to be its duties and then deny him—on grounds that it cannot reveal its methods of operation—any recourse under law? What if it is wrong in its accusations?

The Supreme Court, in a divided opinion several years ago, held that government agencies are so privileged. But the Chief Justice, Earl Warren, wrote for the four-man minority that the court was opening the way to real abuse.

By its very nature the CIA is compelled to operate outside the law. This mode of operation has risks for the agency and its agents. It accepts those risks as a necessary adjunct of its clandestine activities. The courts and other agencies of government should cooperate as much as they possibly can.

But the court should be wary lest any rule it lays down should give a secret agency an unchecked license to slander. And the agency should be certain that it does not place a court, as it is seeking to do in this case, in the position of denying a man the right to seek a remedy under law.